



House of Representatives

General Assembly

File No. 427

January Session, 2007

Substitute House Bill No. 7040

House of Representatives, April 10, 2007

The Committee on Planning and Development reported through REP. FELTMAN of the 6th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

***AN ACT CONCERNING RESUBDIVISIONS AND CLARIFYING
CONSIDERATIONS OF INLAND WETLANDS DECISIONS BY
PLANNING AND ZONING COMMISSIONS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (g) of section 8-3 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective*
3 *October 1, 2007*):

4 (g) The zoning regulations may require that a site plan be filed with
5 the commission or other municipal agency or official to aid in
6 determining the conformity of a proposed building, use or structure
7 with specific provisions of such regulations. If a site plan application
8 involves an activity regulated pursuant to sections 22a-36 to 22a-45,
9 inclusive, the applicant shall submit an application for a permit to the
10 agency responsible for administration of the inland wetlands
11 regulations not later than the day such application is filed with the
12 zoning commission. The commission shall, within the period of time

13 established in section 8-7d, accept the filing of and shall process,
14 pursuant to section 8-7d, any site plan application involving land
15 regulated as an inland wetland or watercourse under chapter 440. The
16 decision of the zoning commission shall not be rendered on the site
17 plan application until the inland wetlands agency has submitted a
18 report with its final decision. [In making its decision the zoning
19 commission shall give due consideration to the report of the inland
20 wetlands agency.] In making its decision, the commission shall
21 consider the report of the inland wetlands agency and if the
22 commission establishes terms and conditions for approval that are not
23 consistent with the final decision of the inland wetlands agency, the
24 commission shall state on the record the reason for such terms and
25 conditions. A site plan may be modified or denied only if it fails to
26 comply with requirements already set forth in the zoning or inland
27 wetlands regulations. Approval of a site plan shall be presumed unless
28 a decision to deny or modify it is rendered within the period specified
29 in section 8-7d. A certificate of approval of any plan for which the
30 period for approval has expired and on which no action has been taken
31 shall be sent to the applicant within fifteen days of the date on which
32 the period for approval has expired. A decision to deny or modify a
33 site plan shall set forth the reasons for such denial or modification. A
34 copy of any decision shall be sent by certified mail to the person who
35 submitted such plan within fifteen days after such decision is
36 rendered. The zoning commission may, as a condition of approval of
37 any modified site plan, require a bond in an amount and with surety
38 and conditions satisfactory to it, securing that any modifications of
39 such site plan are made or may grant an extension of the time to
40 complete work in connection with such modified site plan. The
41 commission may condition the approval of such extension on a
42 determination of the adequacy of the amount of the bond or other
43 surety furnished under this section. The commission shall publish
44 notice of the approval or denial of site plans in a newspaper having a
45 general circulation in the municipality. In any case in which such
46 notice is not published within the fifteen-day period after a decision
47 has been rendered, the person who submitted such plan may provide

48 for the publication of such notice within ten days thereafter. The
49 provisions of this subsection shall apply to all zoning commissions or
50 other final zoning authority of each municipality whether or not such
51 municipality has adopted the provisions of this chapter or the charter
52 of such municipality or special act establishing zoning in the
53 municipality contains similar provisions.

54 Sec. 2. Section 8-26 of the general statutes is repealed and the
55 following is substituted in lieu thereof (*Effective October 1, 2007*):

56 All plans for subdivisions and resubdivisions, including
57 subdivisions and resubdivisions in existence but which were not
58 submitted to the commission for required approval, whether or not
59 shown on an existing map or plan or whether or not conveyances have
60 been made of any of the property included in such subdivisions or
61 resubdivisions, shall be submitted to the commission with an
62 application in the form to be prescribed by it. The commission shall
63 have the authority to determine whether the existing division of any
64 land constitutes a subdivision or resubdivision under the provisions of
65 this chapter, provided nothing in this section shall be deemed to
66 authorize the commission to approve any such subdivision or
67 resubdivision which conflicts with applicable zoning regulations. Such
68 regulations may contain provisions whereby the commission may
69 waive certain requirements under the regulations by a three-quarters
70 vote of all the members of the commission in cases where conditions
71 exist which affect the subject land and are not generally applicable to
72 other land in the area, provided that the regulations shall specify the
73 conditions under which a waiver may be considered and shall provide
74 that no waiver shall be granted that would have a significant adverse
75 effect on adjacent property or on public health and safety. The
76 commission shall state upon its records the reasons for which a waiver
77 is granted in each case. The commission may establish a schedule of
78 fees and charge such fees. The amount of the fees shall be sufficient to
79 cover the costs of processing subdivision applications, including, but
80 not limited to, the cost of registered or certified mailings and the
81 publication of notices, and the costs of inspecting subdivision

82 improvements. Any schedule of fees established under this section
83 shall be superseded by fees established by ordinance under section 8-
84 1c. The commission may hold a public hearing regarding any
85 subdivision proposal if, in its judgment, the specific circumstances
86 require such action. No plan of resubdivision shall be acted upon by
87 the commission without a public hearing. Such public hearing shall be
88 held in accordance with the provisions of section 8-7d. The
89 commission shall approve, modify and approve, or disapprove any
90 subdivision or resubdivision application or maps and plans submitted
91 therewith, including existing subdivisions or resubdivisions made in
92 violation of this section, within the period of time permitted under
93 section 8-26d. Notice of the decision of the commission shall be
94 published in a newspaper having a substantial circulation in the
95 municipality and addressed by certified mail to any person applying to
96 the commission under this section, by its secretary or clerk, under his
97 signature in any written, printed, typewritten or stamped form, within
98 fifteen days after such decision has been rendered. In any case in
99 which such notice is not published within such fifteen-day period, the
100 person who made such application may provide for the publication of
101 such notice within ten days thereafter. Such notice shall be a simple
102 statement that such application was approved, modified and approved
103 or disapproved, together with the date of such action. The failure of
104 the commission to act thereon shall be considered as an approval, and
105 a certificate to that effect shall be issued by the commission on
106 demand. The grounds for its action shall be stated in the records of the
107 commission. No planning commission shall be required to consider an
108 application for approval of a subdivision plan while another
109 application for subdivision of the same or substantially the same parcel
110 is pending before the commission. For the purposes of this section, an
111 application is not "pending before the commission" if the commission
112 has rendered a decision with respect to such application and such
113 decision has been appealed to the Superior Court. If an application
114 involves land regulated as an inland wetland or watercourse under the
115 provisions of chapter 440, the applicant shall submit an application to
116 the agency responsible for administration of the inland wetlands

117 regulations no later than the day the application is filed for the
118 subdivision or resubdivision. The commission shall, within the period
119 of time established in section 8-7d, accept the filing of and shall
120 process, pursuant to section 8-7d, any subdivision or resubdivision
121 involving land regulated as an inland wetland or watercourse under
122 chapter 440. The commission shall not render a decision until the
123 inland wetlands agency has submitted a report with its final decision
124 to such commission. [In making its decision the commission shall give
125 due consideration to the report of the inland wetlands agency.] In
126 making its decision the commission shall consider the report of the
127 inland wetlands agency and if the commission establishes terms and
128 conditions for approval that are not consistent with the final decision
129 of the inland wetlands agency, the commission shall state on the
130 record the reason for such terms and conditions. In making a decision
131 on an application, the commission shall consider information
132 submitted by the applicant under subsection (b) of section 8-25
133 concerning passive solar energy techniques. The provisions of this
134 section shall apply to any municipality which exercises planning
135 power pursuant to any special act.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2007	8-3(g)
Sec. 2	October 1, 2007	8-26

PD *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

OFA Fiscal Note

State Impact: None

Municipal Impact:

Municipalities	Effect	FY 08 \$	FY 09 \$
Various Municipalities	See Below	Potential Minimal	Potential Minimal

Explanation

Allowing rather than requiring a municipal planning commission to hold a hearing could minimally reduce costs to various municipalities.

Any increase in the administrative workload of a municipal planning commission or zoning commission due to additional requirements in the bill is anticipated to be nominal and within resources.

The Out Years

The annualized ongoing impact identified above would continue into the future.

OLR Bill Analysis**sHB 7040*****AN ACT CONCERNING RESUBDIVISIONS AND CLARIFYING
CONSIDERATIONS OF INLAND WETLANDS DECISIONS BY
PLANNING AND ZONING COMMISSIONS.*****SUMMARY:**

This bill allows, rather than requires, municipal planning commissions to hold a hearing on an application for a resubdivision (a subdivision of land that has already been subdivided).

The bill requires a planning commission that has received an application to subdivide or resubdivide of land regulated as an inland wetland or watercourse by a local wetland agency, to accept the application and process it on the commission's schedule set in existing law. By law, the commission must consider the wetland agency's report in making its decision. The bill requires the commission, if it imposes terms and conditions that are not consistent with the wetland agency's final decision, to state its reasons for the terms and conditions on the record. The bill imposes the same requirements on zoning commissions when they act on site plan applications that are also subject to a wetlands agency jurisdiction.

EFFECTIVE DATE: October 1, 2007

COMMITTEE ACTION

Planning and Development Committee

Joint Favorable Substitute

Yea 19 Nay 0 (03/23/2007)